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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,051	02/12/2002	Wei Wang	02453.0003.CNUS01	8564

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EXAMINER
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BAYARD, DJENANE M

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/075,051

Applicant(s)

WANG ET AL.

Examiner

Djenane M. Bayard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 20-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This is in response to amendment filed on 4/03/06 in which claims 1-4 and 20-22 are pending.

#### ***Response to Arguments***

2. Applicant's arguments with respect to claims 1-4 and 20-22 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,327,622 to Jindal et al.

- a. As per claims 1 and 20, Jindal et al teaches a system for applying a persistence policy to override allocation of a resource based on application of a load balancing policy comprising: first logic for determining if a persistence policy is applicable to a service request and, if so,

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allocating a resource to the request based on application of the persistence policy (See col. 5, lines 35-40, *after the preferred server is identified... subsequent request for the application or replicated service is directed to that server*); furthermore, Jindal et al teaches a second logic for allocating a resource to the request based on application of a load balancing policy if the persistence policy is determined to be inapplicable as determined by the first logic (See col. 6, lines 35-56, *the server identified in look-up table may be determined according to the load-balancing policy* and col. 12, lines 13-24)..

b. As per claim 2, Jindal et al teaches the claimed invention as described above.

Furthermore, Jindal et al teaches wherein the first logic determines if a persistence policy is applicable to a service request having an originator through consideration of whether or not an allocation exists or recently expired for the originator the service request (See col. 11, lines 55-67).

c. As per claims 3 and 21, Jindal et al teaches the claimed invention as described above.

Furthermore, Jindal et al teaches a system for allocating a resource to a resource request having an originator based on application of a persistence policy comprising: first logic for determining whether an allocation exists or recently expired for the originator of the resource request, and, if so, identifying the resource which is the subject of the existing or recently expired allocation (See col. 9, lines 6-58); and second logic for allocating the resource, once identified, to the resource request (See 6, lines 35-45).

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d. As per claims 4 and 22, Jindal et al teaches the claimed invention as described above.

Furthermore, Jindal et al teaches wherein the resource request is derived from or represented by a packet (See col. 2, lines 47-67, *It is inherent to one with ordinary skill in the art at the time of the invention that the resource request is represented by packet*).

### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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Djenane Bayard

Patent Examiner



**RUPAL DHARIA**  
**SUPERVISORY PATENT EXAMINER**